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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,426	09/22/2003	Shigeki Mori	03500.017620	6515
5514 7590 09/19/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER LUONG, ALAN H	
			ART UNIT 2609	PAPER NUMBER
			MAIL DATE 09/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,426

Applicant(s)

MORI ET AL.

Examiner

ALAN LUONG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1,2,3,5,11 and 12** are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,604,215 (US '215) issued to Chiba.

Regarding to claim 1: Chiba discloses an integrated receiver decoder or apparatus (col. 3 lines 29-31 and Fig. 1) comprising:

reception means for receiving data on a stream broadcast via a network; (col.3 lines 56-59)

a buffer memory (53 of Fig. 1) which is capable of storing a predetermined amount of the received data on a stream broadcast; (col.1 lines 46-51)

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Chiba also teaches data processing means for processing the data on a stream broadcast stored on the memory (col.1 lines 46-51) to generate video data for the stream broadcast; (col.4 lines 12-32)

video output means for outputting the video data to a display apparatus; (col. 4 lines 20-28 and 64 of Fig. 1).

detection means, in form of a FEC decoder, for detecting interruption point data indicating a position (please see 33 of Fig. 1) where reproduction of the stream broadcast should be interrupted out of the received data on a stream broadcast (when error correction becomes impossible in the FEC decoder and the pictures no longer be displayed (col.2 lines 23-39) Fig.6C and col.5 lines 7-19), wherein the interruption point data are incorporated in the data on a stream broadcast relating to partitions of a program on the stream broadcast; (col.1 line 40 to col.2 line 6) and

control means for, when a state at which the reproduction of the stream broadcast should be interrupted is detected, controlling the data processing means and the video output means to stop the output of the video data at a position instructed in the interruption point data detected by the detection means. (col.2 lines 39-64 and col.6 lines 5-15).

Regarding to claim 2: Chiba further discloses that the control means also monitors abnormality of communication based upon a stored data amount of the memory (col.1 lines 20-38 and col.1 lines 46-51) and a communication rate of the data,

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which described as a transmission rate in Chiba, on a stream broadcast by the reception means (col.1 lines 45-47).

Regarding to claim 3: In the receiving apparatus of Chiba, the control means further controls the data processing means and the video output means to restart the output of the video data from the position instructed in the interruption point data in response to an amount of data of the data on a stream broadcast stored on the memory having reached a predetermined amount after stopping the output of the video data (see col.4 line 35 to col.5 line 26 and Fig. 3A to 3C).

Regarding to claim 5: Chiba further teaches that the detection means further detects restart point data indicating a restart point after stopping the video output out of the data on a stream broadcast (col.6 lines 5-15), and controls the data processing means and the video output means to restart the output of the video data from a position instructed in the detected restart point data (col.6. lines 38-48)

Regarding to claim 11: With respect to the method claim 11, as discussed above since the receiving apparatus disclosed by Chiba anticipates every structural element and its function required by the apparatus claim 1 and since this method claim 11 merely repeats the functions of claim 1, claim 11 must also be anticipated by Chiba (please see col. 4 lines 20-28, and col. 7 line 34 to col. 8 line 9).

Regarding to claim 12. The scope of claim 12 is substantially the same or slightly broader than that of the claim 1 since it requires every structural element of

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claim 1. Thus, claim 12 is also anticipated by Chiba for the same reasons provided in the rejection of claim 1.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. **Claims 4 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Chiba** in view of US Patent 6,452,943 (US '943) issued to **Furuya**.

Regarding to claim 4: Chiba teaches the control of data processing means and the video output means to restart the output of the video data, but fails to address the estimate time when the output of the video data can be restarted based upon the amount of data, which is stored on the buffer memory.

Furuya **teaches** a receiving apparatus, in an analogous art, wherein the amount of expandable data in the reception buffer memory and estimated time when the output of the video data can be restarted based upon the amount of data, which is stored on the buffer memory.(see col.19 line 10 to col.20 line16 and Fig. 20).

Therefore, it would have been obvious to an ordinary skill in the art at the time of the invention was made to modify the estimate time when the output of the video data can be restarted based upon the amount of data, which is stored on the buffer memory as taught by Furuya, in Chiba's receiving apparatus, in order to prevent the interruption of the video reproduction image by control the time difference between the transmitting and receiving state.

Regarding to claim 9: Chiba further discloses that the control means also selects the two kinds of levels of the interruption point data according to a type of a communication rate of the connected network (col.6 lines 38-48); however Chiba fails to disclose the detection means further detects two kinds of levels of the interruption point data out of the data on a stream broadcast .

Furuya discloses the data receiving apparatus, wherein the detection means further detects two kinds of levels of the interruption point data out of the data on a stream broadcast (US'943' col.21 lines 11-13 and col.22 lines 52-54). Therefore, it would have been obvious to an ordinary skill in the art at the time of the invention was made to provide for Chiba's receiver system with the detection means which detects

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two kind of detecting levels as taught by Furuya in order to allow the system to control video reproduction cycle.

5. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Chiba** in view of JP 2002-0844471 (JP '471).

Regarding to claim 6: Chiba discloses the above receiving apparatus according to claim 1, but fails to disclose the control means further controls the video output means to output predetermined video data instead of video data according to the data on a stream broadcast after stopping the output of the video data.

The JP '471 discloses the control means controls the video output means to output predetermined video data instead of video data according to the data on a stream broadcast after stopping the output of the video data. (See JP '471' para [0023], [0024] and [0025] and Drawing-3). Therefore, it would have been obvious to an ordinary skill in the art at the time of the invention was made to modify the predetermined video data were decoded and memorized in the image memory (or storage means) before the abnormalities are detected in the image decoder block, in the Chiba's system, as disclosed by Takashi, in order to prevent the interruption of video reproduction by outputted the memorized image data after stopping the output of the video data.

Regarding to claim 7: The JP '471 also teaches, in the case in which an amount of data of the data on a stream broadcast stored on the memory has reached a predetermined amount after stopping the output of the video data (JP '741 para.[0008]

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and para.[0009]), the control means further controls the data processing means and the video output means to restart the output of the video data from a position instructed in the interruption point data after the predetermined video data ends (JP '741 para.[0010]).

Therefore, it would have been obvious to an ordinary skill in the art at the time of the invention was made to generate a predetermined video data is outputted from video decoder when the change of abnormalities or a receiving stream is detected in stream decoder wherein transmits the control signal directly stop the output of decoding video data., in the Chiba's system, as disclosed by the JP '471, in order to prevent the interruption of video reproduction by outputted the memorized image data after stopping the output of the video data.

6. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Chiba** in view of JP 2001-359073 (JP '073).

Regarding to claim 8: Chiba discloses a receiver apparatus substantially comprising every element of claim 1; but Chiba fails to teach, wherein the detection means further detects location information of a second distribution server, which is capable of distributing data on a stream broadcast at or after the interruption point, out of the data on a stream broadcast, and the control means controls the reception means to make connection to the second distribution server when abnormality of communication is detected.

The JP '073 discloses a program distribution server 13 inside of a distribution site 1 (see Drawing 1 and 4 block 13 and 1) as a second distribution server, which is capable

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of distributing data on a stream broadcast at or after the interruption point (see para.[0054] lines 2-4) , and the control means controls the reception means to make connection to the second distribution server (see para. [0041], [0042], and [0043]) when abnormality of communication is detected. Therefore, it would have been obvious to an ordinary skill in the art at the time of the invention was made to modify the second distribution server, which is capable of distributing data on a stream broadcast at or after the interruption point and the command to make connection to the second distribution server when abnormality of communication is detected as JP'073 teaches in Chiba's receiving apparatus; in order to distribute data on a stream broadcast at or after the interruption point.

7. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Chiba** in view of US Patent Publication US 2003/0066078 (US '078) published to Bjorgan et al..

Regarding to claim 10: As discussed above, Chiba discloses a receiver apparatus substantially comprising every element of claim 1; however, Chiba does not disclose the data which designates a position where the stream broadcast should be interrupted after a CM ends and before a program following the CM starts, which are included in the data on a stream broadcast.

Bjorgan discloses the commercial detector interface to insert a CM in the primary stream broadcast (see US'078' para.[0041], [0042] and para.[0078] lines32-41). Therefore, it would have been obvious to an ordinary skill in the art at the time of the invention was made to insert a CM in the data on a stream broadcast as taught by

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Bjorgan in Chiba's system, in order to prevent the interruption of video reproduction when the abnormalities are detected.

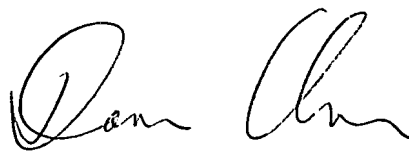
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571) 270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow can be reached on (571) 272-7767. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alan Luong
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